

REMARKS/ARGUMENTS

This case has been carefully reviewed and analyzed in view of the Official Action dated 1 June 2005. Responsive to the rejections made in the Official Action, Claims 1-4 have been amended to clarify the combination of the elements that form the invention of the subject Patent Application.

In the Official Action, the Examiner objected to the Drawings under 37 C.F.R. § 1.84(u)(1) because the single view was identified as "Fig. 1". In response to this objection, a new Drawing has been submitted and the label "Fig. 1" has been removed and no longer appears in the Drawing.

In the Official Action the Examiner made various notations with regard to the Claims. Specifically, with regard to Claim 1, the Examiner noted that the transitional phrase "the features of which are that" has been interpreted as being open-ended. Furthermore, the Examiner kindly suggested changes to Claims 1 and 4 to improve and clarify antecedent basis. In response to these notations, Applicant has amended Claims 1 and 4 to show proper antecedent basis.

In the Official Action, the Examiner rejected Claim 2 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Specifically, the Examiner stated that the phrase "or other means" rendered Claim 2 indefinite. In response to this rejection, Claim 2 has now been amended and more clearly clarifies and distinctly points out the subject matter which Applicant

regards as the invention.

In the Official Action, the Examiner rejected Claims 1-4 under 35 U.S.C. § 102(b) as being anticipated by the Zhou, et al. (U.S. Patent 6,120,531).

Before discussing the prior art relied upon by the Examiner, it is believed beneficial to first briefly review the invention of the subject Patent Application, as now defined in Claim 1. The inventive composition concept is directed to an air purification physiological metabolism promoting health material. The invention is comprised of a finely pulverized, naturally radioactive rare earth element which is selected from the group consisting of lanthanum, praseodymium, neodymium, promethium, samarium, europium, gadolinium, terbium, dysprosium, holmium, erbium, thulium, ytterbium, lutetium, and scandium. Furthermore, the finely pulverized, naturally radioactive rare earth element is in an unencapsulated, exposed state and attached to a surface of a synthetic or natural base material.

In contradistinction, the Zhou, et al. reference discloses a fiber, fabric, physiotherapy fiber, shoes, fabric, and clothes utilizing electromagnetic energy. Specifically, Zhou, et al. discloses fiber, fabric, clothes, and shoes having a material incorporated therein which, when stimulated by energy, emits a predetermined spectrum of various electromagnetic radiations. The energy stimulating the material can be body heat, electrical heat, magnetic energy, or other energy forms.

Nowhere does the reference disclose or suggest a composition of the above-

mentioned elements in their unencapsulated exposed state attached to the surface of a synthetic or natural base material. The material used in the Zhou, et al. reference has to be stimulated by energy. Specifically, Zhou, et al. states, "...energy source 1 can be of many forms, such as thermal energy, solar energy, chemical energy, or biological energy...". Applicant teaches the use of the elements which are capable in their natural state of emitting positive ions and therefore do not need to be stimulated by an energy source. Furthermore, nowhere does Zhou, et al. disclose the specific naturally radioactive rare earth elements which Applicant teaches as part of the claimed subject matter as now provided in amended Claim 1.

Therefore, as the reference fails to disclose or suggest, "...a finely pulverized, naturally radioactive rare earth element, which emits in a natural state positive ions and is selected from the group consisting of lanthanum, praseodymium, neodymium, promethium, samarium, europium, gadolinium, terbium, dysprosium, holmium, erbium, thulium, ytterbium, lutetium, and scandium; and said finely pulverized, naturally radioactive rare earth element is in an unencapsulated, exposed state and attached to a surface of a synthetic or natural base material..." as shown in currently amended Claim 1, it is not believed to anticipate the invention of the subject Patent Application as now claimed nor is the subject Application concept obvious in view of the Zhou, et al. reference since Zhou, et al. 's reference relies on an "encapsulated" concept in combination with a

reflecting layer which is in contradistinction to the claimed subject system, whereby the efficiency of the subject Application system for emission of positive ions in the “unencapsulated” and “exposed” state is increased over that proposed by Zhou, et al.

While it is believed that dependent Claims 2, 3 and 4 add further patentably distinct limitations, those Claims are at least patentably distinct for the same reasons as independent Claim 1.

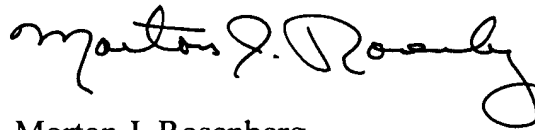
In the Official Action, the Examiner rejected Claims 1-4 under 35 U.S.C. § 102(e) as being anticipated by Takimoto (U.S. Patent 6,743,271). Co-ownership of the subject Patent Application and the Takimoto Patent existed at the time of the invention of the subject Patent Application and continues to exist. Applicant now submits a Terminal Disclaimer attached to the Amendment with the requisite fees being paid which is believed to obviate the Examiner’s rejection.

The references cited by the Examiner but not used in the rejection have been reviewed and are believed to be further remote from the subject invention concept as now defined by the amended Claims and that used by the Examiner in his rejection.

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Reply to Office Action dated 1 June 2005

It is now believed that the subject Patent Application has been placed in condition for allowance and such action is respectfully requested.

Respectfully submitted,
For: ROSENBERG, KLEIN & LEE

A handwritten signature in black ink, appearing to read "Morton J. Rosenberg". The signature is fluid and cursive, with a large, stylized "R" at the end.

Morton J. Rosenberg
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Dated: 8/31/05

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AMENDMENTS TO THE DRAWINGS:

The attached replacement Drawing sheet includes a change to previous Fig.

1. In the Drawing, the label "Fig. 1" has been removed.

Attachment: one replacement sheet



Appln. No. 10/661,623
Reply to Office Action dated 6/1/2005
Replacement Sheet

